

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

United States of America, Plaintiff, -v- Linda B. Phillips; Robert S. Phillips; County of Suffolk, New York; J.S. Funding Corporation; Commissioner of the New York Department of Taxation and Finance; SW Anderson Sales Co.; Clerk of the Suffolk County Traffic and Parking Violations Agency; Town of Smithtown Receiver of Taxes; and Calvary SPV I, LLC as assignee of Citibank, N.A., Defendants.	2:22-cv-2564 (NJC) (AYS)
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MEMORANDUM AND ORDER

NUSRAT J. CHOUDHURY, United States District Judge:

On May 5, 2022, Plaintiff United States of America (the “Government”) brought this action to enforce federal tax liens against real property located at 434 Meadow Road, Kings Park, New York 11754 (the “Property”), previously titled in the name of Defendants Linda B. Phillips and Robert S. Phillips and presently titled in the name of the County of Suffolk, New York. (Compl., ECF No. 1.) On April 8, 2024, the Government filed a Motion for Default Judgment against Defendant Commissioner of the New York Department of Taxation and Finance (the “NYDTF Commissioner”) seeking entry of a default judgment against the NYDTF Commissioner under Rule 55 of the Federal Rules of Civil Procedure. (Mot. Default J., ECF No. 58.) The Government seeks only a determination that the Property may be sold free and clear of any interest of the State of New York to secure the collection of state taxes, and that the proceeds from any sale may be distributed to satisfy the liens of the Government. (*Id.*; *see also* Proposed Default J. Order, ECF No. 58-2.)

On October 23, 2024, Magistrate Judge Anne Y. Shields issued a Report and Recommendation (the “R&R”) recommending that the Motion for Default Judgment be granted. (R&R, ECF No. 70.) A copy of the R&R was filed electronically on October 23, 2024, and the Government was directed “to serve a copy . . . by overnight mail and first-class mail to” the NYDTF Commissioner and to file proof of service by October 25, 2024. (*See id.* at 7–8.) On October 25, 2024, the Government filed proof of service indicating the Government served the NYDTF Commissioner with a copy of the R&R that same day via both first-class mail and overnight mail. (ECF No. 71.)

The R&R instructed that any objections to the R&R must be submitted in writing to the Clerk of Court within fourteen days of service. (R&R at 8.) The period to file objections ran through November 6, 2024. The date for filing any objections has thus expired, and no party has filed an objection to the R&R.

In reviewing a report and recommendation, the court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If no objections are filed, a district court reviews a report and recommendation for clear error. *King v. Paradise Auto Sales I, Inc.*, No. 15-cv-1188, 2016 WL 4595991, at *1 (E.D.N.Y. Sept. 2, 2016) (citation omitted); *Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Because no party has filed objections to the R&R, I may review the R&R for clear error. *King*, 2016 WL 4595991, at *1. Nevertheless, I reviewed the R&R *de novo* out of an abundance of caution. Having reviewed the motion papers, the applicable law, and the R&R, I adopt the R&R in its entirety. (ECF No. 70.)

Accordingly, I grant the Motion for Default Judgment against the NYDTF Commissioner (ECF No. 58). To the extent that a judicial sale of the Property is ordered in this action, such sale

shall be free and clear of any rights, titles, liens, claims or interests that NYDTF Commissioner might have in the Property or the proceeds of the judicial sale. The Clerk of Court is respectfully directed to enter judgment against the NYDTF Commissioner in accordance with this Order.

Dated: Central Islip, New York
March 24, 2025

/s/ Nusrat J. Choudhury
NUSRAT J. CHOUDHURY
United States District Judge